

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jerald Boitnott,

Court File No.: _____

Plaintiff,

v.

NOTICE OF REMOVAL

Drkula's 32 Bowl and Grove Bowl, Inc.,

Defendants.

Defendants Drkula's 32 Bowl and Grove Bowl, Inc. respectfully file this Notice of Removal of the above-captioned action from the District Court for the First Judicial District of the State of Minnesota, Dakota County, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446. In support of the Notice of Removal, Defendants state the following:

1. On October 19, 2018, Defendants received a copy of the Summons and Complaint in an action entitled *Jerald Boitnott v. Drkula's 32 Bowl and Grove Bowl, Inc.* venued in the First Judicial District of the State of Minnesota, Dakota County.

2. In this action, Plaintiff seeks damages for alleged violations of the Americans with Disabilities Act, 42 U.S.C. §§ 12101 through 12189, and also seeks a declaratory judgment under 28 U.S.C. § 2201, Federal Rule of Civil Procedure 57 and/or Minnesota Statutes § 555.01, *et seq.*, and Minnesota Rule of Civil Procedure 57.

3. This matter has not been filed in state court. A true and correct copy of the Summons and Complaint, which constitutes all the process, pleadings, and orders served on Defendants to date, is attached as Exhibit A.

4. This Notice of Removal is filed within thirty days after receipt of the Complaint by Defendants and is timely filed under 28 U.S.C. §1446(b).

GROUND FOR REMOVAL

5. The First Judicial District of the State of Minnesota, Dakota County, is located in the district of the United States District Court for the District of Minnesota.

6. Under 28 U.S.C. §1441(a), a civil action is removable if the Plaintiff could have originally brought the action in federal court.

7. The above-captioned action is one that this Court has original federal question jurisdiction under 28 U.S.C. §1331 because it includes claims arising under the laws of the United States, specifically, the Americans with Disabilities Act, 42 U.S.C. §§ 12181 through 12189.

8. Under 28 U.S.C. §1367, this Court also has supplemental jurisdiction over the second cause of action pleaded in the Complaint, a claim for a declaratory judgment brought, in part, under state law, Minnesota Statute § 555.01, *et. seq.* and Minnesota Rule of Civil Procedure 57 (*see* Compl. ¶¶ 58-60) because the state law claim is “so related” to the federal claims within the Court’s original jurisdiction “that they form part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C. §1367(a).

9. Pursuant to 28 U.S.C. §1446(d), promptly after filing this Notice of Removal, Defendants will give written notice, together with a copy of the Notice of Removal and supporting papers, to Plaintiff by service on her counsel and will file a copy of the Notice of Removal with the clerk of the state court.

WHEREFORE, Defendants Drkula's 32 Bowl and Grove Bowl, Inc. states that this action is properly removable and respectfully requests that this action be removed from the First Judicial District Court of the State of Minnesota, Dakota County and that all further proceedings in this action shall be conducted before this Court.

Dated: November 6, 2018

By: s/ Jacalyn N. Chinander
Bradley J. Lindeman (#0298116)
Jacalyn N. Chinander (#0388266)
Meagher & Geer, P.L.L.P.
33 South Sixth Street, Suite 4400
Minneapolis, MN 55402
Telephone: (612) 338-0661
Facsimile: (612) 338-8384
Email: blindeman@meagher.com
jchinander@meagher.com

Attorneys for Defendants